



2 September 2016

**Re: AM2014/196 and AM2014/197 – Casual and Part-time Employment**

- The United Voice claim in respect of casual entitlement to overtime in the *Hospitality Industry (General) Award 2010*, *Registered and Licensed Clubs Award 2010* and *Restaurant Industry Award 2010*.
- The Australian Hotels Association claim in respect of part-time employment in the *Hospitality Industry (General) Award 2010*.
- The Clubs Australia Industrial claim in respect of part-time employment in the *Registered and Licensed Clubs Award 2010*.

Dear Parties,

Please find attached the directions for the provision of final written and oral submissions in relation to these applications.

In relation to the applications concerning part-time employment in the *Hospitality Industry (General) Award 2010* and the *Registered and Licensed Clubs Award 2010*, also attached are proposed varied part-time employment provisions for these awards for the parties' consideration. These proposed provisions represent the provisional view of the Full Bench as to one possible way in which the applications concerning part-time employment might be resolved. They do not represent any final or concluded view on the part of the Full Bench and the parties should not proceed upon any assumption that the proposed provisions will ultimately be reflected in the Full Bench's decision. Each party is invited to make submissions in accordance with the directions as to whether the provisions, either as proposed or in any identified modified form, would be appropriate to include in either award.

Kind regards,

**Katrine Huynh**

Associate to Vice President Hatcher

**Fair Work Commission**

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# DIRECTIONS

*Fair Work Act 2009*

s.156 - 4 yearly review of modern awards

## **4 yearly review of modern awards –Casual employment and Part-time employment**

(AM2014/196 and AM2014/197)

VICE PRESIDENT HATCHER  
SENIOR DEPUTY PRESIDENT HAMBERGER  
DEPUTY PRESIDENT KOVACIC  
DEPUTY PRESIDENT BULL  
COMMISSIONER ROE

SYDNEY, 2 SEPTEMBER 2016

*4 yearly review of modern awards –Hospitality Industry (General) Award 2010, Registered and Licensed Clubs Award 2010 and Restaurant Industry Award 2010.*

[1] The proponents of variations in the *Hospitality Industry (General) Award 2010, Registered and Licensed Clubs Award 2010* and *Restaurant Industry Award 2010* are to file final comprehensive written submissions by **5.00pm Friday 16 September 2016**.

[2] Any interested parties opposing the variations are to file comprehensive written submissions in reply to the submissions filed pursuant to the first direction by **5.00pm Friday 7 October 2016**.

[3] The matter will be listed for closing oral submissions on **Thursday 27 October 2016**.

[4] Parties are granted liberty to apply to vary these directions.

[5] All submissions are to be sent to [amod@fwc.gov.au](mailto:amod@fwc.gov.au).



VICE PRESIDENT

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## HOSPITALITY INDUSTRY (GENERAL) AWARD

### 12. Part-time employment

- (a) An employer may employ part-time employees in any classification in this award.
- (b) A part-time employee is an employee who is employed in a classification in **Schedule D - Classification Definitions** and who:
- is engaged to work at least 8 and less than 38 ordinary hours per week or, where the employer operates a roster, an average of at least 8 and fewer than 38 hours per week over the roster cycle;
  - has reasonably predictable hours of work; and
  - receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.
- (c) At the time of engagement the employer and the part-time employee will agree in writing upon:
- (i) the number of hours of work which is guaranteed to be provided and paid to the employee each week or, where the employer operates a roster, the number of hours of work which is guaranteed to be provided and paid to the employee over the roster cycle (**the guaranteed hours**); and
  - (ii) the days of the week, and the periods in each of those days, when the employee will be available to work the guaranteed hours (**the employee's availability**).
- (d) Any change to the guaranteed hours may only occur with the written consent of the employee.
- (e) The employer may roster the working of the employee's guaranteed hours and any additional hours in accordance with **clause 30 - Rostering**, provided that:
- (i) the **employee** may not be rostered for work for any hours outside the employee's availability;
  - (ii) the employee must not be rostered to work in excess of 12 or less than 3 hours in a day; and
  - (iii) the employee must have two consecutive days off each week.

- (f) The employee may alter the days and hours of the employee's availability on 28 days' notice to the employer.
- (g) All time worked in excess of the employee's rostered hours will be overtime and paid for at the rates prescribed in **clause 33 - Overtime**.
- (h) An employee who does not meet the definition of a part-time employee and who is not a full-time employee will be paid as a casual employee in accordance with clause 10.5.
- (i) A part-time employee employed under the provisions of this clause must be paid for ordinary hours worked at the rate of 1/38th of the weekly rate prescribed for the class of work performed.

## REGISTERED AND LICENSED CLUBS AWARD

### 10.4 Part-time employment

- (a) An employer may employ part-time employees in any classification in this award.
- (b) A part-time employee is an employee who is employed in a classification in **Schedule C - Classification Definitions** and who:
- is engaged to work at least 8 and less than 38 ordinary hours per week or, where the employer operates a roster, an average of at least 8 and fewer than 38 hours per week over the roster cycle;
  - has reasonably predictable hours of work; and
  - receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.
- (c) At the time of engagement the employer and the part-time employee will agree in writing upon:
- (i) the number of hours of work which is guaranteed to be provided and paid to the employee each week or, where the employer operates a roster, the number of hours of work which is guaranteed to be provided and paid to the employee over the roster cycle (**the guaranteed hours**); and
  - (ii) the days of the week, and the periods in each of those days, when the employee will available to work the guaranteed hours (**the employee's availability**).
- (d) Any change to the guaranteed hours may only occur with the written consent of the employee.
- (e) The employer may roster the working of the employee's guaranteed hours and any additional hours in accordance with **clause 25 - Roster**, provided that:
- (i) the **employee** may not be rostered for work for any hours outside the employee's availability;
  - (ii) the employee must not be rostered to work in excess of 12 or less than 3 hours in a day; and
  - (iii) the employee must have two consecutive days off each week.

- (f) The employee may alter the days and hours of the employee's availability on 28 days' notice to the employer.
- (g) All time worked in excess of the employee's rostered hours will be overtime and paid for at the rates prescribed in **clause 28 - Overtime**.
- (h) An employee who does not meet the definition of a part-time employee and who is not a full-time employee will be paid as a casual employee in accordance with clause 10.5.
- (i) A part-time employee employed under the provisions of this clause must be paid for ordinary hours worked at the rate of 1/38th of the weekly rate prescribed for the class of work performed.